IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

FAO.No. 98 of 2004()

AGAINST THE ORDER DATED 03/03/2004 IN IA 1464/2003 IN
AS.48/2001 of ADDL.SUB COURT, KOCHI
O.S.NO.725/1998 OF MUNSIFF COURT, KOCHI.

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APPELANTS/PETITIONERS IN IA/APPELLANTS/DEFENDANTS

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1. PHILIP MERCILINE, AGED 55 YEARS,
   RESIDING AT C.C.X/1205, AMARAVATHY ROAD,
   KOCHI-1.

2. REETHA W/O PHILIP MERCILINE,
   AGED 47 YEARS, RESIDING AT C.C.X/1205,
   AMARAVATHY ROAD, KOCHI-1.

BY ADV. SRI.SOJAN MICHEAL

RESPONDENTS: RESPONDENTS IN IA/RESPONDENTS/PLAINTIFFS

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1. K.R.DILIP, S/O. K.S.RAJU,
   C.C.11/171, KONCHERRY VEEDU,
   THAMARAKULAM ROAD, SOUTH THAMARA PARAMBU,
   FORT KOCHI.

2. K.R.PRADEEP S/O. K.S.RAJU,
   C.C.11/171, KONCHERRY VEEDU, THAMARAKULAM ROAD,
   SOUTH THAMARA PARAMBU, FOR KOCHI.

BY ADV. SRI.SHAJI P.CHALY

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 11/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

F.A.O.No.98 of 2004

Dated, this the 11th day of October, 2007

JUDGMENT

It is submitted by Advocate Shri Sojan Micheal, learned counsel appearing for the appellants that this appeal is filed against an order dismissing a petition filed under Order XLI Rule 19 of Civil Procedure Code for restoring an appeal dismissed for default. It is also submitted that during the pendency of this appeal the decree of the trial court has become inoperative on account of the regularisation of the alleged unauthorised construction and as such this appeal has become infructuous. Submission made by the counsel is recorded and the F.A.O. is closed recording that the decree of the trial court has become inoperative.

I.A.No.1082/2004 will stand dismissed.

K. PADMANABHAN NAIR,
JUDGE.

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